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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,118	06/23/2003	A. Satyanarayan Naidu	50046290-0017	9093
26263	7590	09/30/2004	EXAMINER	
SONNENSCHN NATH & ROSENTHAL LLP			RUSSEL, JEFFREY E	
P.O. BOX 061080			ART UNIT	
WACKER DRIVE STATION, SEARS TOWER			PAPER NUMBER	
CHICAGO, IL 60606-1080			1654	

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/602,118	<b>Applicant(s)</b> NAIDU, A. SATYANARAYAN	
	<b>Examiner</b> Jeffrey E. Russel	<b>Art Unit</b> 1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. The abstract of the disclosure is objected to because at line 1, "a" (second occurrence) should be deleted. Correction is required. See MPEP § 608.01(b).
2. The claim for priority set forth at page 1, lines 6-8, of the specification is objected to because: (1) The filing date given for parent application 09/980,062 is incorrect. The correct filing date is May 10, 2002. (2) There is no copendency between parent application 09/980,062, filed May 10, 2002, and parent application 09/322,720, which issued as a patent on January 9, 2001. Note that applicants have omitted any reference to prior application PCT/US00/14818, of which parent application 09/980,062 is a national stage application. (3) The status of parent application 09/322,700 needs to be updated in the priority claim. Correction is required.

With respect to (2) above, any amended priority claim filed at this point in time will not be timely filed within the time period set forth in 37 CFR 1.78(a)(2) or (a)(5). If the application is an application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a nonprovisional application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the reference to the prior application must be made during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). If applicant desires priority under 35 U.S.C. 120 based upon a previously filed application, applicant must file a petition for an unintentionally delayed benefit claim under 37 CFR 1.78(a)(3) or (a)(6). The petition must be

accompanied by: (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted); (2) a surcharge under 37 CFR 1.17(t); and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

3. Claims 3-8 and 10-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent basis in the claims for the phrase "the foodstuff" at claim 3, line 1. Note that claim 1 uses the terminology "food product" rather than "foodstuff". There is no antecedent basis in the claims for the phrase "the composition" in claim 10. Note that claim 9 does not use the terminology "composition", and of the several materials and compounds recited in the claim, it is not clear which constitutes "the composition". There is no antecedent basis in the claims for the phrase "the composition" at claim 14, line 2. The claims upon which claim 14 depends do not use the terminology "composition", and of the several materials and compounds recited in these claims, it is not clear which constitutes "the composition". There is no antecedent basis in the claims for the phrase "the meat" at claim 15, line 1. Claim 1 does not mention "meat".

4. Claims 1-8 and 12-18 are objected to because of the following informalities: At claim 1, line 2, "a" should be deleted. At claim 1, line 3, the comma occurring after "Campylobacter spp" should be changed to a period. At claim 1, lines 4-5, "Bacillus spp." is repeated, and one of

the two occurrences should be deleted. At claim 1, line 8, the period occurring after "Methylbacterium radiotoleran," should be deleted. At claim 1, lines 8-9 and 10-11, the Cladosporium, Mucor, Rhizopus, Penicillium, Geotrichium, Sprotrichium, and Candida species are repeated, and one of the two occurrences should be deleted. At claim 2, line 9, the second comma after "putrefaciens" should be deleted. At claim 2, line 9, "Enterobacter" is misspelled. At claim 14, line 1, "of" should be inserted before "lactoferrin". At claim 16, line 1, "microbial" should be changed to "microbiological" so as to be consistent with the terminology used in claim 15, upon which claim 16 depends. Appropriate correction is required.

5. Claims 2-8, 12-14, and 16-18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 2 recites a microbe, *Deinobacter grandis*, which is not a species of any of the microbes recited in independent claim 1. It is possible that "Deinobacter" is a misspelling of "Deinococcus". Claim 15 requires the treatment of a meat product, whereas claim 16 is more generally drawn to the treatment of a food product. Accordingly, the method of claim 16 can be practiced without infringement of the method of claim 15 (by treating a non-meat food product), and therefore claim 16 does not further limit the subject matter of claim 15. Claim 17 recites a microbe which is verotoxic *E. coli*. However, claim 17 is ultimately dependent upon claim 2, which does not include such a microbe in its list. Accordingly, claim 17 does not further limit the subject matter of claim 2.

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-14 and 17-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-49, 51, and 56-203 of copending Application No. 09/980,062. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the '062 application anticipate instant claims 1-4. With respect to instant claims 5-14 and 17-20, while the '062 application does not claim treating the particular food or meat products recited in these claims, it would have been obvious to one of ordinary skill in the art to treat such food and meat products according to the claimed method of the '062 application because the claimed treatment of the '062 application is applicable to all foodstuffs, because the particular food and meat products recited in instant claims 5-14 and 17-20 are known in the art, and because it is desirable to prevent or reduce microbial contamination of such products.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claims 15 and 16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-49, 51, and 56-203 of copending Application No. 09/980,062 in view of Reimann et al (U.S. Patent No. 6,291,003), Yuan et al (U.S. Patent No. 6,066,348), or Newman (U.S. Patent No. 5,597,597). The '062

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application does not claim additional treatment of the food or meat products with at least one other microbiological decontamination intervention such as with ozone, thermal pasteurization, high pressure processing, electrolyzed oxidizing water, ionizing radiation, or an antimicrobial agent. Reimann et al teach pasteurizing meat in order to reduce surface contamination. See, e.g., the Abstract. Yuan et al teach disinfecting a foodstuff such as meat using ozone. See, e.g., the abstract and claims 1 and 15. Newman teaches sterilizing meats with UV radiation. See, e.g., column 4, lines 25-36, and Example 3. It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine the claimed method for reducing microbial contamination of meat products of the '062 application with the pasteurization, ozone treatment, and/or UV radiation of Reimann et al, Yuan et al, and/or Newman because pasteurization, ozone treatment, and UV radiation are known methods for decontaminating meat products and because the use of plural different types of decontaminating procedures would ensure that a wider variety of contaminants are removed and that they are removed to a greater degree.

This is a provisional obviousness-type double patenting rejection.

8. Instant claims 1-8 and 12-19 are not deemed to be entitled under 35 U.S.C. 120 to the benefit of the filing date of parent application 09/980,062 because the parent application '062, under the test of 35 U.S.C. 112, first paragraph, does not disclose possible contamination by *Listeria*, *Campylobacter*, *Hafnia*, *Aeromonas*, *Micrococcus*, *Achromobacter*, *Proteus*, *Brocothrix*, *Arcobacter*, *Shewanella*, *Deinoccus*, *Flavobacterium*, *Acinetobacter*, *Cladosporium*, *Mucor*, *Rhizopus*, *Penicillium*, *Geotrichium*, *Sporotrichium*, *Candida*, *Torula*, or *Rhodotorula* species in general, or by *A. butzleri*, *P. fluorescence*, *S. putrefaciens*, *E. cloa*, *F. aquatile*, *A. Baumannii*, or

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A. calcoaceticus species in particular, does not disclose treating a ready-to-eat meat product, does not disclose treating bologna or pepperoni, does not disclose treating a meat product additionally containing a vegetable, dairy, sauce, broth, or gravy ingredient, and does not disclose further treating a food or meat product with at least one other microbiological decontamination intervention such as with ozone, thermal pasteurization, high pressure processing, electrolyzed oxidizing water, ionizing radiation, or an antimicrobial agent.

Instant claims 9-11 and 20 are deemed to be entitled under 35 U.S.C. 120 to the benefit of the filing date of parent application 09/980,062 because the parent application '062, under the test of 35 U.S.C. 112, first paragraph, discloses the claimed invention.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

For the purposes of this invention, the level of ordinary skill in the art is deemed to be at least that level of skill demonstrated by the patents in the relevant art. Joy Technologies Inc. v. Quigg, 14 USPQ2d 1432 (DC DC 1990). One of ordinary skill in the art is held accountable not only for specific teachings of references, but also for inferences which those skilled in the art may reasonably be expected to draw. In re Hoeschele, 160 USPQ 809, 811 (CCPA 1969). In addition, one of ordinary skill in the art is motivated by economics to depart from the prior art to reduce costs consistent with desired product properties. In re Clinton, 188 USPQ 365, 367 (CCPA 1976); In re Thompson, 192 USPQ 275, 277 (CCPA 1976).



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10. Claims 1-11, 13, 14, 17, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by the WO Patent Application 00/72690. The WO Patent Application '690 teaches reducing microbial contamination of a composition by treating with lactoferrin immobilized on a naturally occurring substrate via the N-terminus region of the lactoferrin. The composition to be treated can be a meat product, including beef, pork, poultry, and vegetable products; primal, subprimal, and case-ready cuts; chops, steaks, ground meat, and cold cuts; and sausages, salamis, and hotdogs. The microbes include verotoxic *E. coli* and *L. monocytogenes*. The lactoferrin concentration on the surface of the composition to be treated ranges from about 0.0001 to about 10 mg/sq. inch. See, e.g., page 28, lines 1-15, and claims 18, 32, 33, 38, 39, 57-61, 68, and 69.

11. Claims 12 and 19 are rejected under 35 U.S.C. 103(a) as being obvious over the WO Patent Application 00/72690. Application of the WO Patent Application '690 is the same as in the above rejection of claims 1-11, 13, 14, 17, 18, and 20. The WO Patent Application '690 does not teach treating a frozen meat product additionally containing a vegetable, dairy, sauce, broth, or gravy ingredient. It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to treat frozen meat products additionally containing a vegetable, dairy, sauce, broth, or gravy ingredient, because the treatment of the WO Patent Application '690 is applicable to all foodstuffs, including meat and vegetable products; because frozen meat products additionally containing a vegetable, dairy, sauce, broth, or gravy ingredient are known in the art; and because it is desirable to prevent or reduce microbial contamination of such products.

12. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being obvious over the WO Patent Application 00/72690 as applied against claims 1-11, 13, 14, 17, 18, and 20 above, and

further in view of Reimann et al (U.S. Patent No. 6,291,003), Yuan et al (U.S. Patent No. 6,066,348), or Newman (U.S. Patent No. 5,597,597). The WO Patent Application '690 does not teach additional treatment of the food or meat products with at least one other microbiological decontamination intervention such as with ozone, thermal pasteurization, high pressure processing, electrolyzed oxidizing water, ionizing radiation, or an antimicrobial agent. Reimann et al teach pasteurizing meat in order to reduce surface contamination. See, e.g., the Abstract. Yuan et al teach disinfecting a foodstuff such as meat using ozone. See, e.g., the abstract and claims 1 and 15. Newman teaches sterilizing meats with UV radiation. See, e.g., column 4, lines 25-36, and Example 3. It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine the method for reducing microbial contamination of meat products of the WO Patent Application '690 with the pasteurization, ozone treatment, and/or UV radiation of Reimann et al, Yuan et al, and/or Newman because pasteurization, ozone treatment, and UV radiation are known methods for decontaminating meat products and because the use of plural different types of decontaminating procedures would ensure that a wider variety of contaminants are removed and that they are removed to a greater degree.

13. Claims 1-11, 13, 14, 17, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Naidu (U.S. Patent No. 6,172,040). Naidu teaches reducing microbial contamination of a composition by treating with lactoferrin immobilized on a naturally occurring substrate via the N-terminus region of the lactoferrin. The composition to be treated can be a meat product, including beef, pork, and poultry products; sliced deli meats and ground meat; and sausages, salamis, and hotdogs. The microbes include verotoxic E. coli and S. dysenteriae. The lactoferrin concentration on the surface of the composition to be treated ranges from about

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0.0001 to about 10 mg/sq. inch. See, e.g., column 5, line 18 - column 6, line 15. With respect to instant claim 18, because the food and meat products taught by Naidu are the same as those claimed by Applicant, the food and meat products taught by Naidu are inherently subject to contamination by *Listeria monocytogenes* to the same extent claimed by Applicants. Note that the instant claims do not require actual contamination by any particular microbe.

14. Claims 12 and 19 are rejected under 35 U.S.C. 103(a) as being obvious over Naidu (U.S. Patent No. 6,172,040). Application of Naidu is the same as in the above rejection of claims 1-11, 13, 14, 17, 18, and 20. Naidu does not teach treating a frozen meat product additionally containing a vegetable, dairy, sauce, broth, or gravy ingredient. It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to treat frozen meat products additionally containing a vegetable, dairy, sauce, broth, or gravy ingredient by the method of Naidu, because the treatment of Naidu is applicable to all foodstuffs, including meat and vegetable products; because frozen meat products additionally containing a vegetable, dairy, sauce, broth, or gravy ingredient are known in the art; and because it is desirable to prevent or reduce microbial contamination of such products.

15. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being obvious over Naidu (U.S. Patent No. 6,172,040) as applied against claims 1-11, 13, 14, 17, 18, and 20 above, and further in view of Reimann et al (U.S. Patent No. 6,291,003), Yuan et al (U.S. Patent No. 6,066,348), or Newman (U.S. Patent No. 5,597,597). Naidu does not teach additional treatment of the food or meat products with at least one other microbiological decontamination intervention such as with ozone, thermal pasteurization, high pressure processing, electrolyzed oxidizing water, ionizing radiation, or an antimicrobial agent. Reimann et al teach pasteurizing meat in order to reduce

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surface contamination. See, e.g., the Abstract. Yuan et al teach disinfecting a foodstuff such as meat using ozone. See, e.g., the abstract and claims 1 and 15. Newman teaches sterilizing meats with UV radiation. See, e.g., column 4, lines 25-36, and Example 3. It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine the method for reducing microbial contamination of meat products of Naidu with the pasteurization, ozone treatment, and/or UV radiation of Reimann et al, Yuan et al, and/or Newman because pasteurization, ozone treatment, and UV radiation are known methods for decontaminating meat products and because the use of plural different types of decontaminating procedures would ensure that a wider variety of contaminants are removed and that they are removed to a greater degree.

16. Claims 1-6, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Laufer (U.S. Patent No. 5,106,643) in view of the Harper et al text, Okonogi et al (U.S. Patent No. 4,791,193), and the Naidu et al article (Env. Nutr. Interactions, Vol. 2, pages 35-50). Laufer teaches whole milk in combination with meat products such as beef or pork. The beef can be ground beef. See, e.g., Examples 3 and 30. The Harper et al text teaches that milk inherently comprises casein, triglycerides, lactose (a disaccharide comprising galactose),  $\alpha$ -lactalbumin, IgA, lysozyme, and nucleic acids in an aqueous solution. The Harper et al text also teaches that milk inherently comprises citrate, phosphate, and carbonate buffer salts. Okonogi et al teach that lactoferrin is inherently present in milk (see column 1, lines 11-25). Because the same components are present in the same aqueous solution, inherently the lactoferrin which is present in the milk of Laufer will be immobilized on the casein, triglycerides, lactose,  $\alpha$ -lactalbumin, IgA, lysozyme, and nucleic acids which are inherently present in milk of Laufer to the same

extent claimed by Applicant. The Naidu et al article teaches that lactoferrin complexes with casein,  $\alpha$ -lactalbumin, lysozyme, and IgA (see page 45, first full paragraph), and thus is further evidence that the milk of Laufer inherently comprises immobilized lactoferrin. Note that the rejected claims do not require the lactoferrin to be in isolated form, and thus embrace lactoferrin as it naturally occurs in milk. Because the meat products taught by Laufer are the same as those claimed by Applicant, the meat products taught by Laufer are inherently subject to contamination by the same microbes and to the same extent claimed by Applicants. Note that the instant claims do not require actual contamination by any particular microbe. Because the same meat products are being contacted with the same immobilized lactoferrin, inherently microbial contamination of the meat products in Laufer will be reduced to the same extent claimed by Applicant. The Naidu et al article also teaches that lactoferrin blocks the growth of *B. subtilis*, *E. coli*, *S. dysenteriae*, and *C. albicans* (see the paragraph bridging pages 38 and 39), and thus is further evidence that the lactoferrin present in the milk of Laufer inherently will reduce microbial contamination by these microbes. Sufficient evidence of similarity is deemed to be present between the method of Laufer and Applicant's claimed method to shift the burden to Applicant to provide evidence that the claimed invention is unobviously different than that of Laufer.

17. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being obvious over Laufer (U.S. Patent No. 5,106,643) in view of the Harper et al text, Okonogi et al (U.S. Patent No. 4,791,193), and the Naidu et al article (Env. Nutr. Interactions, Vol. 2, pages 35-50) as applied against claims 1-6, 17, and 18 above, and further in view of Reimann et al (U.S. Patent No. 6,291,003), Yuan et al (U.S. Patent No. 6,066,348), or Newman (U.S. Patent No. 5,597,597). Laufer does not teach treatment of the food products with at least one microbiological decontamination intervention

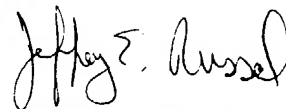
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such as with ozone, thermal pasteurization, high pressure processing, electrolyzed oxidizing water, ionizing radiation, or an antimicrobial agent. Reimann et al teach pasteurizing meat in order to reduce surface contamination. See, e.g., the Abstract. Yuan et al teach disinfecting a foodstuff such as meat using ozone. See, e.g., the abstract and claims 1 and 15. Newman teaches sterilizing meats with UV radiation. See, e.g., column 4, lines 25-36, and Example 3. It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to treat the food products of Laufer with the pasteurization, ozone treatment, and/or UV radiation of Reimann et al, Yuan et al, and/or Newman because pasteurization, ozone treatment, and UV radiation are known methods for decontaminating food products and would result in a food product which is safer to consume.

18. The WO Patent Application 00/72874 and Braun et al (U.S. Patent Application Publication 2003/0229011) are cited as art of interest, being essentially duplicative of the references applied above.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (571) 272-0969. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Bruce Campell can be reached at (571) 272-0974. The fax number for formal communications to be entered into the record is (703) 872-9306; for informal communications such as proposed amendments, the fax number (571) 273-0969 can be used. The telephone number for the Technology Center 1600 receptionist is (571) 272-1600.



Jeffrey E. Russel  
Primary Patent Examiner  
Art Unit 1654

JRussel  
September 28, 2004